



# Mescalero Apache Telecom, Inc. NETWORKS



Ex Parte Communication via Electronic Comment Filing System

March 6, 2018

The Honorable Ajit Pai, Chairman  
The Honorable Mignon Clyburn, Commissioner  
The Honorable Michael O'Rielly, Commissioner  
The Honorable Jessica Rosenworcel, Commissioner  
The Honorable Brendan Carr, Commissioner  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**Re: Operating Expense Limitation, WC Docket No. 10-90**

Dear Chairman Pai, Commissioner Clyburn, Commissioner O'Rielly, Commissioner Rosenworcel, and Commissioner Carr:

Mescalero Apache Telecom, Inc. (MATI) respectfully, but urgently, requests the Commission's vote and approval of the current operating expense relief Order on circulation that recognizes the necessary and additional costs of providing telecommunications services on Tribal lands. MATI attests that, in its specific case, extremely high costs are necessarily incurred to build out its Reservation and maintain network operations to provide modernized telecommunications & broadband services to its Community and close the digital divide. For example, due to the lack of necessary infrastructure identification equipment and appropriate mapping, MATI incurred over \$350,000 of additional construction costs resulting from hitting unmarked water and sewer lines during its current fiber-to-the-home build. This example is very telling as it not only shows what efforts MATI is expending to advance its Community for long-term telecommunications and broadband capability, but also it shows the uphill battle that is a common and continuing theme for Tribal lands that have long been left behind by way of the economic reality in Indian Country.

The National Tribal Telecommunications Association (NTTA) has previously urged the Commission to take the necessary steps to immediately vote on the order circulated in February 2017 that would revise the Commission's operating expense limitation rule (47 CFR § 54.303(a)) for rate-of-return regulated carriers serving Tribal areas. As Chairman Pai told several Members of Congress in an April 28, 2017 letter, because the Commission "recognizes that carriers serving Tribal lands incur costs that other rural carriers do not face, resulting in significantly higher operating expenses to serve very sparsely populated service areas," the Order currently on circulation would "allow carriers serving Tribal lands a greater ability to recover operating expenses, thus improving the financial viability of operating a broadband network serving Tribal lands."

This relief, which is based on a proposal from NTTA, is critical to the operations of multiple NTTA members (and other non-NTTA carriers serving Tribal lands). NTTA's pertinent correspondence regarding the operating expense limitation proposal is a February 9, 2017 ex parte communication filed in WC Docket

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No. 10-90 in which NTTA provided specific examples of unique operating costs that carriers serving Tribal areas experience, consistent with the acknowledgement by Chairman Pai in his April 28, 2017 letter to Congress.

In acknowledgment of the extraordinary costs of operations necessary for MATI's sparsely-populated serving area, this aforementioned relief is critical for MATI to remain viable, even in the short term. MATI's small size (approximately 1,400 access lines) makes it challenging enough to serve the 463,000 acre Mescalero Apache Reservation, and when the Commission's various high cost support constraint mechanisms are considered (budget control mechanism; frozen NACPL; operating expense cap; multiple corporate expense caps), providing quality service is nearly impossible. MATI will be forced to begin laying off employees within the next couple of months if relief is not granted. As a result, MATI is pleading for the Commission to finish what it started over a year ago for the well-being of its Community and sustainability of its operations.

Based on the above plea for urgency and the uncontested evidence that MATI, NTTA and others have entered into the record, MATI believes the Commission has everything it needs to authorize and approve the current Order on circulation.

Thank you for your immediate attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Godfrey Enjady', with a long horizontal line extending to the right.

Godfrey Enjady  
General Manager

cc: Senator Tom Udall  
Senator Martin Heinrich  
Congressman Steve Pearce  
Congressman Ben Ray Lujan  
Congresswoman Michelle Lujan Grisham  
Matthew Duchesne, Office of Native Affairs and Policy